



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,556	08/09/2001	Stephen A. Yenko	032405-058	5402
33109	7590	01/24/2006	EXAMINER	
CARDICA, INC. 900 SAGINAW DRIVE REDWOOD CITY, CA 94063			BAXTER, JESSICA R	
			ART UNIT	PAPER NUMBER
			3733	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/924,556

Applicant(s)

YENCHO ET AL.

Examiner

Jessica R. Baxter

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 30-36, 45, 46, 48 and 55-84 is/are pending in the application.
- 4a) Of the above claim(s) 30-36 and 59-76 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 55-58 and 77-84 is/are allowed.
- 6) ☒ Claim(s) 45, 46 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 45, 46, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 6,024,748 to Manzo et al. in view of U.S. Patent No. 5,833,698 to Hinchliffe et al.

Manzo discloses an anastomosis device applicator comprising a first tube configured to receive an anastomosis device (FIG. 19 unit 16); a second tube concentric with the first tube (tube 46), the first and second tubes configured for movement with respect to one another (FIG. 19 and 20); and a side hole in at least one of the first and second tubes configured to allow the graft vessel to pass out the side of the tube (FIG. 19 IMA). Manzo discloses the claimed invention except for the anastomosis device being a one-piece device. Hinchliffe teaches that a one-piece device (FIG. 28) may be used as an alternate embodiment for a plurality of individual clips (FIG. 1A). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Manzo, with a one-piece device since a one-piece device is considered to be an alternate embodiment of an anastomosis device.

Regarding the limitation “two spaced-apart flanges”, the prongs 334 of Hinchliffe are considered to be flanges.

***Allowable Subject Matter***

3. Claims 55-58 and 77-84 are allowed.

***Response to Arguments***

4. Applicant's arguments filed 15 November 2005 have been fully considered but they are not persuasive.

Applicant argues that the individual clips and a one-piece anastomosis device are not equivalent structures. These structures, however, are alternative embodiments of anastomosis systems. Hinchcliffe et al. '698 show that anastomosis systems may use either a one-piece approach (FIG. 28) or an individual clip approach (FIG. 21). It is clear that these are alternative embodiments of an anastomosis system. One of ordinary skill in the art would be able to understand that both a one-piece and a multiple clip approach may be alternative embodiments of an anastomosis system.

Applicant argues that Manzo et al. '748 and Hinchcliffe et al. '698 do not disclose applying torque to the anastomosis device. However, the torque is applied to the clips when the arms are rotated towards the center portion of each clip by crimping (Manzo, Column 12, lines 1-10). In addition, the prongs on the one-piece device are rotated inwards by a camming surface (Hinchcliffe, Column 11, lines 46-51).

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R. Baxter whose telephone number is 571-272-4691. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

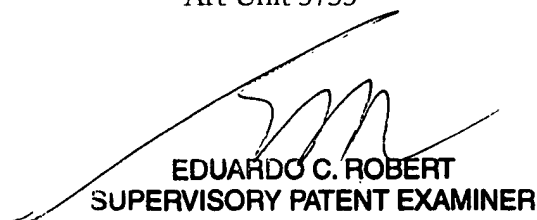
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



jrB

Jessica R Baxter  
Examiner  
Art Unit 3733



EDUARDO C. ROBERT  
SUPERVISORY PATENT EXAMINER